

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)
Plaintiff-Respondent,)
)
v.) 03-CR-30047-MAP
) 09-CV-30079-MAP
MELVIN RICHARDSON,)
Defendant-Petitioner)

MEMORANDUM AND ORDER REGARDING
CERTIFICATE OF APPEALABILITY

September 8, 2010

PONSOR, D.J.

Following his conviction on March 31, 2006 for drug and firearms offenses, Petitioner was sentenced to 217 months imprisonment, with four years of supervised release to follow. On March 31, 2008, this conviction was affirmed on appeal. United States v. Richardson, 515 F.3rd 74 (1st Cir. 2008).

Petitioner thereafter filed a Motion to Vacate, Set Aside or Correct Sentence Pursuant to 28 U.S.C. § 2255. He offered as arguments in favor of the petition claims that

his counsel was ineffective and that the court erroneously admitted evidence in violation of Arizona v. Gant, 129 S. Ct. 1710 (2009). On July 2, 2010, the court issued its memorandum denying Petitioner's motion. The court noted that Petitioner's counsel carefully advised him during the trial and that the petition for relief merely sought review of several difficult tactical decisions made during the course of the trial. This court concluded that Petitioner's counsel's performance easily satisfied the constitutional requirements for effective representation. The court further found that Gant was inapplicable to the facts of this case, since the search here was made pursuant to a proper inventory, and did not constitute a search incident to arrest.

For the reasons set forth in more detail in the court's memorandum of July 12, 2010, the court hereby declines to issue a Certificate of Appealability. There simply has not been any showing of the denial of any constitutional right. Petitioner has not raised issues which are debatable among jurists of reason, in the sense that some other court could

resolve them in a manner differently than I did.

Unfortunately for Petitioner, his petition simply does not raise questions which deserve encouragement to proceed further on appeal.

In response to the order of the First Circuit Court of Appeals of August 30, 2010 (Dkt. No. 14 in 09-cv-30079 and Dkt. No. 149 in 03-cr-30047), any request for a Certificate of Appealability is hereby DENIED. These cases have previously been closed and may remain closed.

It is So Ordered.


MICHAEL A. PONSOR
U. S. District Judge